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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4313 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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SECRETART/GENERAL MANAGER

Versus

P D DESAI

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Appearance:

MR MD PANDYA for Petitioner

MR KV GADHIA for Respondent No. 1

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 08/12/2000

ORAL JUDGEMENT

#. This writ petition under Article 226 of the Constitution is directed against the order of the Industrial Tribunal, Rajkot, in Reference (IT) No.167 of 1988 dated 28th July 1988, Annexure-C at page No.26 of the compilation.

#. The facts of the case are that P.D.Desai, the respondent herein, an officer of the rank of Senior Accounts Officer of the Board raised industrial dispute that the age of superannuation for the officers of the Board should have been 60 years and not 55 years and the action of the Board to retire him before attaining the age of 60 years is wholly unjustified and arbitrary. Before the Tribunal, he prayed for grant of interim relief and under the order impugned in this special civil application, the Tribunal has granted interim relief in the terms directing the Board not to relieve the respondent from services till further orders after 31st July, 1988 and the Rule was made returnable on 8th August, 1988. This petition has been filed in this court by petitioner on 6th August, 1988. The matter was circulated for preliminary hearing on 8th August, 1988 on which date notice was issued to the respondent and ad-interim relief, in terms of para 13(b), on the statement of the learned counsel for the petitioner on behalf of the petitioner that in case the respondent ultimately succeeds, the petitioner will pay all the backwages and other benefits to the respondent, was granted. Paragraph 13(b) of the petition reads as under:

13(b) to stay, pending the hearing and final disposal of this petition, the execution and implementation of the impugned order dated 28.7.88 (Annexure-C) passed by the Industrial Tribunal, Rajkot, in Reference (IT) No.167 of 1988;

Meaning thereby, the interim relief which has been granted by the industrial has been stayed by this court and this interim relief continues till this date. Reference in dispute is of the year 1988 and there is all the possibility that by now, same would have been finally decided. However, none of the counsel appearing for the parties are able to make any statement affirmatively on this factual aspect. Be that as it may, the respondent would have attained the age of superannuation also long back and otherwise also, prayer made by him for grant of interim relief now no more is of any substance.

#. In the result, this petition is dismissed, Rule discharged and interim relief granted stands vacated. However, vacation of interim relief does not mean that the respondent may claim any monetary benefits for the period of two years' service. The respondent shall be entitled for benefits of two years services only in case ultimately the Industrial Tribunal has decided or decides

the dispute in his favour and not otherwise. In case the Industrial Tribunal has not decided the Reference aforesaid till date, it is expected of it to decide the same finally within a period of two months from the date of receipt of writ of this order. In the facts of this case, no order as to costs. ....

(sunil)